

JUN 22 2009

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, Clerk
By *[Signature]* Deputy Clerk

CAP

NOAH BECK, a Minor by his Parents
and Next Friends, HILLARY BECK
and JORDAN BECK, and HILLARY
BECK, in her own right, and JORDAN
BECK, in his own right,

Plaintiff

v.

TENET HEALTHCARE
CORPORATION, D/B/A NORTH
FULTON REGIONAL HOSPITAL,
and TENET GEORGIA, INC. D/B/A
NORTH FULTON REGIONAL
HOSPITAL, and NORTH FULTON
MEDICAL CENTER, INC. D/B/A
NORTH FULTON REGIONAL
HOSPITAL, and NORTH POINTE
OB/GYN ASSOCIATES, LLC AND
SEAN J. LAMBERT, M.D., and
EMILE ROSE TOUFIGHIAN, CNM,

Defendants.

Civil File Action No.

1 09 - CV - 1 680

(IN THE STATE COURT OF FULTON COUNTY, GEORGIA)
(CIVIL ACTION NO. 2009EV007362C)

NOTICE OF REMOVAL

Come now defendants North Pointe OB/GYN Associates, LLC, Sean J. Lambert, M.D., and Emile Rose Toufighian, CNM ("these defendants"), by and through the law firm Huff, Powell, & Bailey, LLC, and file this Notice of Removal of the above-referenced state court action pursuant to 28 U.S.C. § 1441. In support of this Notice of Removal, these defendants show as follows:

1. On May 14, 2009, a Complaint was filed against the defendants in the State Court of Fulton County, Georgia, entitled Noah Beck, a Minor by his Parents and Next Friends, Hillary Beck and Jordan Beck, and Hillary Beck, in her own right, and Jordan Beck, in his own right v. Tenet Healthcare Corporation, d/b/a North Fulton Regional Hospital, and Tenet Georgia, Inc. d/b/a North Fulton Regional Hospital, and North Fulton Medical Center, Inc. d/b/a North Fulton Regional Hospital, and North Pointe OB/GYN Associates, LLC and Sean J. Lambert, M.D., and Emile Rose Toufighian, CNM, Civil File Action No. 2009EV007362C.
2. This Notice of Removal is based upon diversity of citizenship and is filed pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1332. The amount in controversy exceeds \$75,000. All of the defendants reside in the State of Georgia. Defendants Tenet Healthcare Corporation, d/b/a North Fulton Regional Hospital, and Tenet Georgia, Inc. d/b/a North Fulton Regional Hospital, and North Fulton Medical Center, Inc. d/b/a North Fulton Regional Hospital are incorporated entities located in the State of Georgia at CT Corporation System, 1201 Peachtree Street, N.W., Atlanta, Georgia, 30361. Defendant North Pointe OB/GYN, LLC is an incorporated entity located in the State of Georgia at 1505 Northside Boulevard, Suite 3500, Cumming, Georgia, 30041. Defendant Sean J.

Lambert, M.D. resides in the State of Georgia at 120 Growe Road, Alpharetta, Georgia, 30004. Defendant Emile Rose Toufighian, CNM resides in the State of Georgia at 602 Brandywine Circle, Atlanta, Georgia, 30350. Plaintiffs Noah Beck and Hillary Beck are residents of the State of Colorado. Therefore, this Court possesses original jurisdiction over this civil action.

3. The amount in controversy exceeds \$75,000. Plaintiffs have not demanded a specific amount of damages in their Complaint. It is facially apparent from the Complaint, however, that the amount in controversy exceeds \$75,000. The plaintiffs seek damages on behalf of their infant son, Noah Beck for cerebral palsy, permanent and irreversible neurological injury, cognitive and motor dysfunction, speech and language disorder, pain and mental anguish, diminished enjoyment and quality of life, seizure disorder, and loss of earnings and diminished earning capacity. See Complaint at ¶ 36. The plaintiffs contend that Noah Beck has required and will continue to require substantial medical, nursing, and related care, various types of therapies, and other care including specialized devices, equipment, transportation, and housing for which “significant sums of money are being, have been, and will continue to be expended in the future.” Id. at ¶ 37. The plaintiffs also

seek damages on behalf of Hillary Beck and Jordan Beck, including loss of services, loss of income, past and future medical expenses, and other special damages. Id. at ¶¶ 39, 40.

4. Venue is proper in this district and division pursuant to 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending, *i.e.*, Fulton County, Georgia.
5. This Notice of Removal is timely. Plaintiffs filed this Complaint on March 14, 2009. Defendants North Pointe OB/GYN Associates, LLC, Sean J. Lambert, M.D., and Emile Rose Toufighian, CNM were served with a copy of the Summons and Complaint on May 21, 2009, May 22, 2009, and June 2, 2009, respectively. Thus, these defendants file this Notice of Removal within 30 days of receipt of the initial pleading of defendant North Pointe OB/GYN, the first served defendant, and within one year of the commencement of this action as required by 28 U.S.C. § 1446(b).
6. Defendants Tenet Healthcare Corporation, d/b/a North Fulton Regional Hospital, and Tenet Georgia, Inc. d/b/a North Fulton Regional Hospital, and North Fulton Medical Center, Inc. d/b/a North Fulton Regional Hospital by and through their counsel, Kevin Patrick Race, Esq., consent

to this Notice of Removal. Those defendants simultaneously have filed a Consent to Notice of Removal with this Court.

7. These defendants are simultaneously filing a copy of this Notice of Removal with the State Court of Fulton County, Georgia, and have given notice of the same to the Plaintiffs as required by 28 U.S.C. 1446(d).
8. In accordance with 28 U.S.C. § 1446(a), copies of all pleadings, process, and orders served upon these defendants are attached hereto as “Exhibit A”.
9. These defendants specially reserve all defenses including, without limitation, all defenses specified in Rule 12(b) of the Federal Rules of Civil Procedure and its right to compel arbitration of claims raised in Plaintiffs’ Complaint.

WHEREFORE, defendants North Pointe OB/GYN Associates, LLC, Sean J. Lambert, M.D., and Emile Rose Toufighian, CNM request that this case be removed from the State Court of Fulton County, Georgia and proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, as an action properly removed thereto.

This 22nd day of June, 2009.

A handwritten signature in black ink, appearing to read "T. M. Chamberlin", written over a horizontal line.

R. Page Powell, Jr.

Georgia Bar No. 586696

Taylor M. Chamberlin

Georgia Bar No. 904116

*Attorneys for Defendants Sean J.
Lambert, M.D., Emile Rose
Toufighian, and North Pointe
OB/GYN Associates, LLC*

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NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

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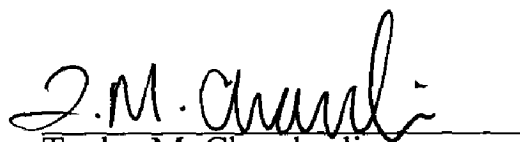
CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing NOTICE OF
REMOVAL upon all counsel of record in this action, by mailing same in the
United States mail, postage prepaid, properly addressed as follows:

Jay D. Lukowski, Esq.
Ronald I. Kaplan, Esq.
KAPLAN & LUKOWSKI LLP
333 Sandy Springs Circle, Suite 200
Atlanta, Georgia 30328

Kevin Patrick Race, Esq.
INSLEY & RACE, LLC
The Mayfair Royal
181 14th Street, N.E., Suite 200
Atlanta, GA 30309

This 22nd day of June, 2009.


Taylor M. Chamberlin
Georgia Bar No. 904116

*Attorney for Defendants Sean J.
Lambert, M.D., Emile Rose
Toufighian, and North Pointe
OB/GYN Associates, LLC*

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